

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PAUL FENTON,

Plaintiff,

9:20-cv-1564 (BKS/DJS)

v.

CYNTHIA PROVOW and KRISTEN DEEP,

Defendants.

Appearances:

Plaintiff pro se:

Paul Fenton
42671604
CNYPC
P.O. Box 300
Marcy, NY 13403

For Defendants:

Letitia James
Attorney General of the State of New York
Adrienne J. Kerwin
Assistant Attorney General, of Counsel
The Capitol
Albany, NY 12224

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

I. INTRODUCTION

Plaintiff pro se Paul Fenton brought this action under 42 U.S.C. § 1983, asserting Fourteenth Amendment deliberate medical indifference claims against Defendants Cynthia Provow and Kristen Deep arising during his civil confinement at the Central New York Psychiatric Facility. (Dkt. No. 1). On January 18, 2022, Defendants filed a motion for summary judgment under Federal Rule of Civil Procedure 56 seeking dismissal of Plaintiff's complaint.

(Dkt. No. 18). This matter was referred to United States Magistrate Judge Daniel J. Stewart who, on August 5, 2022, issued a Report-Recommendation recommending that Defendants' motion for summary judgment be granted. (Dkt. No. 26). Plaintiff has filed a timely objection to the Report-Recommendation. (Dkt. No. 27). For the following reasons, the Report-Recommendation is adopted.

II. STANDARD OF REVIEW

The Court reviews de novo those portions of the Magistrate Judge's findings and recommendations that have been properly preserved with a specific objection. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); 28 U.S.C. § 636(b)(1)(C). “A proper objection is one that identifies the specific portions of the [Report-Recommendation] that the objector asserts are erroneous and provides a basis for this assertion.” *Kruger v. Virgin Atl. Airways, Ltd.*, 976 F. Supp. 2d 290, 296 (E.D.N.Y. 2013) (citation omitted). Properly raised objections must be “specific and clearly aimed at particular findings” in the report. *Molefe v. KLM Royal Dutch Airlines*, 602 F. Supp. 2d 485, 487 (S.D.N.Y. 2009). “[E]ven a pro se party's objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal” *Machicote v. Ercole*, No. 06-cv-13320, 2011 WL 3809920, at *2, 2011 U.S. Dist. LEXIS 95351, at *4 (S.D.N.Y. Aug. 25, 2011) (citation omitted). Findings and recommendations as to which there was no properly preserved objection are reviewed for clear error. *Molefe*, 602 F. Supp. 2d at 487.

III. DISCUSSION

Plaintiff's objection to the Report-Recommendation reads, in its entirety: “I object to the decision of being den[ied]. I want an appeal. Under reasons Court did not get helpful Counsel discovery.” (Dkt. No. 27, at 2). Plaintiff has failed to properly preserve an objection to the Report-Recommendation. His letter objecting to “the decision” in its entirety fails to identify any

portion of the Report-Recommendation that Plaintiff asserts to be error and the basis for that assertion. *Machicote*, 2011 WL 3809920, at *2, 2011 U.S. Dist. LEXIS 95351, at *4; *see also Mario v. P & C Food Markets, Inc.*, 313 F.3d 758, 766 (2d Cir. 2002). Moreover, to the extent Plaintiff's reference to "helpful Counsel discovery" challenges the denial of his motions for the appointment of pro bono counsel, such a challenge is not an objection to the Report-Recommendation.¹ The Court's review is therefore for clear error. The Court has reviewed the Report-Recommendation and finds no clear error in Magistrate Judge Stewart's finding that "no reasonable jury could find that either Deep or Provow was deliberately indifferent to Plaintiff's serious medical needs" and recommendation that Defendants' motion for summary judgment be granted. (*See* Dkt. No. 26, at 19–20). Accordingly, the Court adopts the Report-Recommendation.

IV. CONCLUSION

For these reasons, it is hereby

ORDERED that the Report-Recommendation (Dkt. No. 26) is **ADOPTED**; and it is further

ORDERED that Defendants' Motion for Summary Judgment (Dkt. No. 18) is **GRANTED**, and the Complaint (Dkt. No. 1) is **DISMISSED with prejudice**; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules; and it is further

ORDERED that the Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: August 30, 2022


Brenda K. Sannes
 U.S. District Judge

¹ In any event, the Court finds no error in Magistrate Judge Stewart's denial of Plaintiff's requests for pro bono counsel given Plaintiff's failure to substantiate those requests. (*See* Dkt. Nos. 12, 13, 23, 24).